

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

SEP 22 2015

OFFICE OF
MANAGING DIRECTOR

Barry D. Wood, Esq.
Wood, Martin & Hardy, P.C.
3300 Fairfax Dr., Suite 202
Arlington, VA 22201-4400

Licensee/Applicants: **Delta Radio Network, LLC**
Waiver and Deferral of Payment Request: Financial
Hardship

Disposition: **Dismissed and Denied** (47 C.F.R. §§
1.1164, 1.1166, 1.1910)

Stations: WIBT (FM), WNLA (AM), WNIX (AM),
WISQ (FM), WLTN (FM), and WP266BY.

Broadcast Auxiliaries: KP6117, KF8031, WLF435,
WLF325, and WLF320.

FRN: 0021096524

Fees: Fiscal Year (FY) 2013 Regulatory Fees

Date Request Filed: Apr. 6, 2015

Date Regulatory Fees Paid: Not Paid

Fee Control No.: RROG-13-00015948

Dear Counsel:

This responds to Licensee's untimely *Request*¹ for a waiver of the required, but unpaid delinquent Fiscal Year (FY) 2013 regulatory fees due for Stations WIBT (FM), WNLA (AM), WNIX (AM), WISQ (FM), WLTN (FM), and WP266BY, and Broadcast Auxiliaries KP6117, KF8031, WLF435, WLF325, and WLF320. As we discuss below, we dismiss this untimely second request for a waiver of regulatory fees because the matter is moot and Licensee is a delinquent debtor, and, in the alternative, we deny because the *Request* is incomplete and Licensee fails to establish both good cause and that the public interest will be served by a waiver. Furthermore, Licensee's status as a limited liability company is in question. Specifically, Licensee reported on the FCC Form 323, Ownership for Commercial Broadcast Station² it is a limited liability company located at 9408 Grand Gate St., Las Vegas, NV 89143-1397; however, public records show the Nevada Secretary of State revoked the business registrations for both Delta Radio LLC and Delta Radio Network LLC.³ Under Nevada state law, if the charter of a limited liability company is revoked, the right to conduct business is forfeited,⁴ and the persons

¹ Letter from Barry D. Wood, Esq., Wood, Martin & Hardy, P.C., Attorneys at Law, 3300 Fairfax Dr., Suite 202, VA 22201 to Marlene H. Dortch, Secretary, FCC, 445 12th St., S.W., Attn: Office of Managing Director, Washington, DC 20554 (Apr. 6, 2015) (*Request*) with IRS Form 1065, U.S. Return of Partnership Income, Delta Radio LLC, 2012, without Statements or Attachments; IRS Form 1065, U.S. Return of Partnership Income, Delta Radio LLC, 2013, without Statements or Attachments.

² FCC 323, Ownership Report for Commercial Broadcast Stations, File No. BOA-20131209YDC (Dec. 9, 2013).

³ <https://www.nvsilverflume.gov/businessSearch>.

⁴ 7 NV ST 86.274.

who assume to act as a limited-liability company without authority to do so are jointly and severally liable for all debts and liabilities of the company.⁵ Unless Licensee has relevant satisfactory evidence showing the Nevada records are in error, under the state law, the partners are jointly and severally liable for the fees, and each is a delinquent debtor.

Background

On April 6, 2015, Licensee filed its *Request* for “a waiver of the annual regulatory fees for [six stations and five broadcast auxiliary stations] for Fiscal Year 2013.”⁶ In relevant part, this *Request* duplicates a submission on September 20, 2013, to waive the FY 2012 and FY 2013 regulatory fees. Even so, in this submission, Licensee asserts, it “has been operating at a loss for the last several years. Accordingly, payment of the annual regulatory fees ... would result in an undue financial hardship.”⁷ Licensee refers to 47 C.F.R. § 1.1166 to acknowledge the Commission’s standard that an applicant “to waive, reduce or defer regulatory fees” must establish “good cause shown and [that] waiver, reduction or deferral of the fee would promote the public interest.”⁸ Licensee asserts, “[w]aiver of the regulatory fees ... would promote the public interest by allowing [Licensee] to continue to operate the stations and serve the respective communities of license.”⁹ Licensee includes “copies of its federal income tax returns for calendar years 2012 and 2013,” and it asserts it “lacks the financial resources to have financial statements prepared pursuant to GAAP.”¹⁰ Furthermore, Licensee acknowledges the federal income tax returns are in the name of Delta Radio, LLC, which is separate from Licensee, Delta Radio Network, LLC; however, Licensee asserts the “revenues and expenses are reported [in a] permissible ... consolidated reporting.”¹¹ Finally, Licensee points to the operating losses for 2012 and 2013 reported on its tax returns as support for its assertion that “[p]ayment of [the fiscal year 2013] regulatory fees [of \$6,305] would inflict an undue hardship.”¹²

On April 28, 2015, the Commission dismissed and, in the alternative, denied¹³ (*Dismissal and Denial*) Licensee’s September 20, 2013, *Request* for waiver and deferment of the required Fiscal Year (FY) 2012 and FY 2013 regulatory fees due for Stations WIBT (FM), WNLA (AM), WNIX (AM), WIQQ (FM), WLTM (FM), and WP266BY, and Broadcast Auxiliaries KP6117, KF8031, WLF435, WLF325, and WLF320, and demanded immediate payment of the fee, late payment penalty, and accrued charges.

The Commission’s records show that Licensee has not paid the FY 2012 or FY 2013 regulatory fees, and that it is red lighted as set forth at 47 C.F.R. § 1.1910. Furthermore, as noted above, the Secretary of State of Nevada revoked Licensee’s status as a limited liability company, thus under 7 NV ST 86.361, the individual partners are responsible for the delinquent debts.

⁵ 7 NV ST 86.361.

⁶ *Request* at 1.

⁷ *Id.*

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 2, n. 1.

¹² *Id.* at 2.

¹³ Letter from Mark Stephens, Chief Financial Officer, FCC to Nathaniel J. Hardy, Esq., Wood, Martin & Hardy, P.C., Attorneys at Law, 3300 Fairfax Dr., Suite 202., VA 22201 (Apr. 28, 2015) (*Dismissal and Denial*).

Standards

As set forth at 47 U.S.C. § 159(c)(2) and 47 C.F.R. §§ 1.1164, 1.1166, and 1.1910(a)(2) & (3), when an applicant for relief is delinquent in paying the regulatory fee, we will dismiss¹⁴ the petition and impose the statutory penalty.¹⁵

The Commission's rules at 47 C.F.R. §§ 0.401, 1.7, and 1.1166 establish both the proper locations and procedures for filing waiver requests and petitioning for deferral and the consequence of dismissal for failing to comply with those rules. Specifically, the Commission has designated specific offices to receive and process certain matters, thus a request for relief is filed only upon receipt at the location designated by the Commission.¹⁶ For example, under section 1.1166 of the Commission's rules, a petition to waive a regulatory fee "must be accompanied by the required fee and FCC Form."¹⁷ If the applicant includes the fee, the applicant must submit the request to the Commission's lockbox bank.¹⁸ Furthermore, the Commission will dismiss a waiver request that does not include the required fees or form, unless the applicant includes a separate petition to defer payment due to financial hardship, supported

¹⁴ 47 U.S.C. § 159(c)(2) ("The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee or penalty under this section."); 47 C.F.R. §§ 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment."); 1.1166(c) ("Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship."). Assessment And Collection Of Regulatory Fees For Fiscal Year 2013, *Report and Order*, 28 FCC Rcd 12351, 12369-70, ¶ 54 (2013) ("Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission's rules [footnote deleted] and in the Debt Collection Improvement Act of 1996 (DCIA). ... We will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made [footnote deleted]."); Assessment And Collection Of Regulatory Fees For Fiscal Year 2012, *Notice of Proposed Rulemaking*, 27 FCC Rcd 5539, 5589, ¶ 82 (2012); Assessment And Collection Of Regulatory Fees For Fiscal Year 2010, *Report and Order*, 25 FCC Rcd 9278, 9298, ¶ 55 (2010) ("We will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made [footnote deleted]. Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).").

¹⁵ 47 U.S.C. § 159; 47 C.F.R. § 1.1166; Waivers, Reductions and Deferrals of Regulatory Fees, *Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) ("The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. * * * The Commission will dismiss a waiver request filed by a delinquent debtor or a petition that does not have the required financial documentation.").

¹⁶ 47 C.F.R. §§ 0.401 ("The Commission maintains several offices and receipt locations. Applications and other filings not submitted in accordance with the addresses or locations ... will be returned to the applicant without processing."); 1.7 ("pleadings and other documents are considered to be filed with the Commission upon their receipt at the location designated by the Commission."); Champion Communication Services, Inc., *Order on Reconsideration*, 15 FCC Rcd 23782, 23783-84 (WTB 2000).

¹⁷ 47 C.F.R. § 1.1166(c).

¹⁸ 47 C.F.R. § 1.1166(a)(1).

by documentation of the financial hardship.¹⁹ "If no fee payment is submitted, the request should be filed with the Commission's Secretary."²⁰ Filing is accomplished by mailing or otherwise delivering a hard copy of the documents to Office of the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, D.C. 20554.

Furthermore, under 47 U.S.C. § 159 and 47 C.F.R. §§ 1.1166, the Commission imposes the statutory penalty²¹ on any licensee that submits a request for a waiver based on financial hardship that does not include either the full fee or a timely separate petition to defer payment supported by documentation of the financial hardship.

The Commission recognizes that in certain instances, payment of a regulatory fee may impose an undue financial hardship upon a licensee, and it may be waived, reduced, or deferred upon a showing of *good cause*²² and a finding that the *public interest will be served thereby*.²³ The applicant has the burden of demonstrating relief is warranted,²⁴ i.e., that special circumstances warrant a deviation from the general rule to collect the regulatory fee, and that the deviation will serve the public interest.²⁵ The Commission's rule at 47 C.F.R. § 1.1166 provides,

The fees ... may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. ... (a) ... All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

¹⁹ 47 C.F.R. § 1.1166(b); Assessment and Collection of Regulatory Fees For Fiscal Year 2011, *Report and Order*, 26 FCC Rcd 10812, 10819, ¶ 17 (2011) ("A regulatee's mere allegation of financial hardship thus does not automatically entitle it to a deferral of its obligation to pay regulatory fees; only a properly supported claim of financial hardship will entitle the regulatee to a deferral. Accordingly, if a request for deferral is not supported by documentation of financial hardship, it will be denied, and an associated petition for waiver or reduction will be dismissed. A regulatee cannot delay payment on the theory that its deferral request triggered an automatic six-month extension of its obligation to pay.").

²⁰ 47 C.F.R. § 1.1166(a)(2).

²¹ 47 U.S.C. § 159; 47 C.F.R. § 1.1166; Waivers, Reductions and Deferrals of Regulatory Fees, *Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) ("The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. * * * The Commission will dismiss a waiver request filed by a delinquent debtor or a petition that does not have the required financial documentation.").

²² 47 C.F.R. § 1.3.

²³ 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166. See also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995) (1994 *Report and Order*); *WALT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²⁴ *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

²⁵ *Northeast Cellular*, 897 F.2d at 1166.

An applicant must show extraordinary and compelling circumstances that outweigh the public interest in recouping the Commission's regulatory costs.²⁶ The required "sufficient showing of financial hardship"²⁷ is more than "[m]ere allegations or documentation of financial loss, standing alone. Rather, we will grant a waiver only when the impact of the regulatory fee will affect a regulatee's ability to serve the public. It [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."²⁸ The relevant financial documents include the licensee's balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of the licensee's officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. On this information, the Commission considers on a case-by-case basis whether the licensee met the standard to show the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.²⁹

Discussion

On April 28, 2015, the Commission dismissed and, in the alternative, denied³⁰ (*Dismissal and Denial*) Licensee's September 20, 2013, *Request* for waiver and deferment of the required Fiscal Year (FY) 2012 and FY 2013 regulatory fees due for Stations WIBT (FM), WNLA (AM), WNIX (AM), WIQQ (FM), WLTN (FM), and WP266BY, and Broadcast Auxiliaries KP6117, KF8031, WLF435, WLF325, and WLF320, and demanded immediate payment of the fee, late payment penalty, and accrued charges. Accordingly, our earlier decision resolved the substance of the current *Request*, and the matter is moot. Moreover, Licensee remains delinquent in paying both the FY 2012 and the FY 2013 regulatory fees. Consequently, as set forth at 47 U.S.C. § 159(c)(2) and 47 C.F.R. §§ 1.1164, 1.1166, and 1.1910(a)(2) & (3), we dismiss.³¹ This resolves

²⁶ 1994 *Report and Order*, 9 FCC Rcd at 5344 ¶ 29; Phoenix Broadcasting, Inc. Stations KSWD and KPFN Seward, Alaska, *Memorandum Opinion and Order*, 18 FCC Rcd. 26464, 26446, ¶¶ 5-6 (2003) ("Fee relief may be granted based on asserted financial hardship, but only upon a documented showing that payment of the fee will adversely impact the licensee's ability to serve the public. ... [I]n the absence of a documented showing of insufficient funds to pay the regulatory fees, [applicant] has not made a compelling showing that overrides the public interest in the Commission's recouping the costs of its regulatory activities.").

²⁷ Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Memorandum Opinion and Order*, 10 FCC Rcd 12759, 12761-62, ¶ 13 (1995) (*FY 1994 MO&O*).

²⁸ *Id.*

²⁹ *Id.*

³⁰ Letter from Mark Stephens, Chief Financial Officer, FCC to Nathaniel J. Hardy, Esq., Wood, Martin & Hardy, P.C., Attorneys at Law, 3300 Fairfax Dr., Suite 202., VA 22201 (Apr. 28, 2015) (*Dismissal and Denial*).

³¹ 47 U.S.C. § 159(c)(2) ("The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee or penalty under this section."); 47 C.F.R. §§ 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment."); 1.1166(c) ("Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship."). Assessment And Collection Of Regulatory Fees For Fiscal Year 2013, *Report and Order*, 28 FCC Rcd 12351, 12369-70, ¶54 (2013) ("Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission's rules[footnote deleted] and in the Debt Collection Improvement Act of 1996 (DCIA). ... We will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment

the matter; however, we note there are several other grounds for dismissing and denying Licensee's *Request*.

First, Licensee filed its *Request* on April 6, 2015, without payment of the delinquent regulatory fees and penalties, and well after September 20, 2013, the final date for payment,³² thus we dismiss³³ because it is untimely and, as noted, the debt is delinquent. This is a separate ground for dismissing the *Request*.

Second, the Licensee's financial information is incomplete. Licensee's two federal tax returns for its limited liability company are incomplete. For example, the Forms 1065 for both years do not include all pages or the referenced statements, Schedules K, L, and M, Statements #2 identified at line 7, reporting other income, the "ATT_PLT" at line 14, reporting or explaining taxes and interest deductions, Statements #4 at line 20, describing other deductions, and other statements that may have been noted on the missing Schedules. Moreover, Licensee fails to report the financial resources of the partnership members. The missing information goes to the issue whether Licensee made a "documented showing that payment of the fee will adversely impact the licensee's ability to serve the public."³⁴ Licensee did not make that showing and it failed in its duty to present through documentation that it lacks sufficient funds to pay the regulatory fees and to make a compelling showing that overrides the public interest in the Commission's recouping the costs of its regulatory activities.³⁵ Plainly, without disclosing financial information showing resources and identifying tax deductions, Licensee fails to present evidence that payment of the fees will adversely affect service. This is a separate ground for denial.³⁶

Third, Licensee failed to include evidence to support its assertion that it "lacks the financial resources to have financial statements prepared pursuant to GAAP," which is the Licensee's stated reason for providing only "copies of ... federal income tax returns for calendar years 2012 and 2013." In that regard, Licensee fails to offer satisfactory evidence that a particular level of financial resources are necessary to follow generally accepted accounting

of the delinquent debt or other satisfactory arrangement for payment is not made [footnote deleted]."); Assessment And Collection Of Regulatory Fees For Fiscal Year 2012, *Notice of Proposed Rulemaking*, 27 FCC Rcd 5539, 5589, ¶ 82 (2012); Assessment And Collection Of Regulatory Fees For Fiscal Year 2010, *Report and Order*, 25 FCC Rcd 9278, 9298, ¶55 (2010) ("We will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made [footnote deleted]. Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).").

³² What You Owe-Media Services Licensees for FY 2013, *Regulatory Fees Fact Sheet*, Sep. 5, 2013 (2013 WL 4773991 (FCC)).

³³ Waivers, Reductions and Deferments of Regulatory Fees, *Regulatory Fees Fact Sheet* (Sep. 5, 2013) 2013 WL 4773993 (F.C.C.) ("The Commission will dismiss any petition for waiver of a regulatory fee that does not include a payment or the required petition for deferral and supporting documentation, and under 47 U.S.C. § 159(c) and 31 U.S.C. § 3717, the Commission is required to impose the 25% penalty and other relevant charges. A request for waiver, reduction or deferral must be received before the fee due date. * * * The Commission will dismiss a waiver request filed by a delinquent debtor or a petition that does not have the required financial documentation.").

³⁴ Phoenix Broadcasting, Inc. Stations KSWD and KPFN Seward, Alaska, *Memorandum Opinion and Order*, 18 FCC Rcd. 26464, 26446, ¶¶ 5-6 (2003).

³⁵ *Id.*

³⁶ 47 C.F.R. §1.1166(c).

principles. Moreover, Licensee's submission is incomplete. Missing from the two tax forms are Statements and Schedules, including, for example, Schedule L, Balance Sheet per Books, which is the schedule on which a taxpayer reports assets and liabilities. If, as Licensee asserts, it does not follow generally accepted accounting principles in the preparation of its financial records, then the accuracy and completeness information that is furnished is suspect, and a decision based on that information would be questioned. Furthermore, Licensee's disclaimer raises a critical question as to what accounting standards were used to report financial information.

Fourth, our standard for a waiver requires more than incomplete partnership tax returns showing a business loss. Rather, our well-established standard requires that an applicant show payment of a regulatory imposes an undue financial hardship upon the licensee. Specifically, a fee may be waived, reduced, or deferred upon a showing of good cause³⁷ and a finding that the public interest will be served thereby;³⁸ however, the applicant has the burden of demonstrating relief is warranted³⁹ by demonstrating special circumstances warrant a deviation from the general rule to collect the regulatory fee, and that the deviation will serve the public interest.⁴⁰ Here, Licensee fails to provide relevant financial information, e.g., a balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of the licensee's officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.⁴¹ Accordingly, because Licensee fails to provide appropriate financial documentation, we deny.⁴²

Next, Licensee fails to establish both elements of the standard; good cause and that the public interest will be served by the waiver. Rather than demonstrating extraordinary and compelling circumstances, Licensee's limited financial information shows the business assets increased approximately 6.6% and receipts increased more than 2%. Without other satisfactory evidence, it appears Licensee has sufficient assets to pay the annual regulatory fees. Accordingly, on this ground, we deny.⁴³

Finally, as noted above, public information shows the state of Nevada revoked the limited liability status of both Delta Radio LLC and Delta Radio Network LLC. Under Nevada law, the partners may not conduct business as a limited liability company and the individual partners are jointly and severally liable for the debts.

³⁷ 47 C.F.R. § 1.3.

³⁸ 47 U.S.C. §159(d); 47 C.F.R. § 1.1166. See also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995) (1994 *Report and Order*); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

³⁹ *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

⁴⁰ *Northeast Cellular*, 897 F.2d at 1166.

⁴¹ *FY 1994 MO&O*, 10 FCC Rcd at 12761-62, ¶ 13.

⁴² 47 C.F.R. §1.1166(c).

⁴³ *Id.*

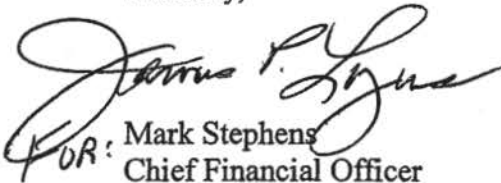
Until Licensee or its partners make full payment of the fees, late payment penalties,⁴⁴ and charges of collection under 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940,⁴⁵ we will continue to assess those charges, and we will withhold action on and thereafter dismiss any pending application.⁴⁶ Additional charges accrue on debts referred to the Secretary of Treasury.⁴⁷ Furthermore, this notifies Licensee that under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we transfer delinquent debts to Treasury, which initiates collection action and assesses additional charges. In addition, we may refer debts to the Department of Justice, which may result in litigation and additional costs.

Moreover, under 31 U.S.C. § 3716, 31 C.F.R. § 285.5, and 47 C.F.R. § 1.1912, some or all of the debt may be collected by non-centralized or centralized administrative offset, and under 31 U.S.C. § 3711(e), these debts and Licensee's payment history will be reported to credit reporting information bureaus. Because we furnish notice here, Licensee may not receive another notification of this process. Finally, Licensee and the partners will be red lighted⁴⁸ until the debts are paid or satisfactory arrangements for full payment have been made.⁴⁹

Licensee requested confidential treatment of the submitted financial data. As set forth in 47 C.F.R. § 0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records; however, we will treat the records as confidential.

If Licensee has any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,


FOR: Mark Stephens
Chief Financial Officer

⁴⁴ 47 U.S.C. § 159(c).

⁴⁵ 31 U.S.C. § 3717; 47 C.F.R. § 1.1940 ("the Commission shall charge interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717 ... These charges shall continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges.").

⁴⁶ 47 C.F.R. § 1.1910(a)(2) & (3) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission ... If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed.").

⁴⁷ Under 31 U.S.C. § 3711(g) and 31 C.F.R. § 285.12, debts delinquent 180 days are transferred to the Secretary of Treasury for collection, and Treasury "may charge fees sufficient to cover the full cost of providing debt collection services ... Fees ... may be added to the debt"

⁴⁸ 47 C.F.R. 1.1910(a).

⁴⁹ See 47 C.F.R. § 1.1914 ("If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments.").

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

SEP 25 2015

OFFICE OF
MANAGING DIRECTOR

Mr. Donald Chew
On-Time Cable
3130 NE 14th Court
Cape Coral, FL 33909

Licensee/Applicant: **Donald Chew dba On-Time Cable**

Request for Waiver of Regulatory Fees: Financial Hardship (47 C.F.R. §§ 1.1166, 78.11, *et seq.*)

Disposition: **Returned - Unprocessable**

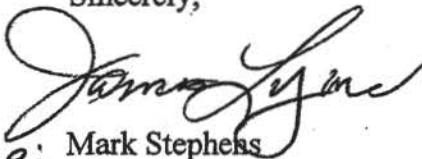
Fee Control No.: RROG 14-00016024

Dear Mr. Chew:

We are returning your request for a waiver of regulatory fees because the Commission's records show that you do not have a license. We cannot process your request.

If you wish to submit an application for a license in the Cable Television Relay Service, please comply with the Commission procedures as set forth at Part 78 of Title 47 Code of Federal Regulations. We recommend that you review 47 C.F.R. Part 78, Cable Television Relay Service, e.g., §§ 78.5, 78.11, 78.15-78.22 for specific guidance concerning an application for the license. Thereafter, if you obtain a license, and you have a valid ground to request a waiver of a required annual regulatory fee, you must comply with the procedures set forth at 47 C.F.R. § 1.1166 and provide satisfactory evidence to establish both good cause and that a waiver will promote the public interest.

Sincerely,


JSR: Mark Stephens
Chief Financial Officer

Enclosures: (2)
Request
Application